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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,770	02/11/2002	Tsuneo Watabe	CM-131	4514

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S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,770

Applicant(s)

WATABE, TSUNEO

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 6 and 7 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 04, 2004.
2. Newly submitted claims 13-21 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are directed to a method of forming and using the bag.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the laminated bag having two to four layers must be shown or the feature(s) canceled from the claims 8 and 9. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Figure 15 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Beer et al. (5,060,803). Beer '803 discloses a reinforced bag formed of heat sealable sheet material (polyethylene), said bag containing liquid or solid material therein and comprising left and right side edge portions and a bottom portion, wherein, at the top of said bag a first heat seal (transverse weld 22A, in Figure 1 embodiment) is formed along an upper edge portion of said bag and a second heat seal (40B) is formed diagonally to extend from said first heat seal to one of said sides wherein said second heat seal portion provides support for the bag when expelling the contents through an opening formed below the first seal. See Figure 3 embodiment.

With respect to claim 5, note notch (46) in Figure 1 embodiment.

7. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Henning (3,397,835). Henning '835 discloses a reinforced bag formed of heat sealable sheet material (polyethylene), said bag containing liquid or solid material therein and comprising left and right side edge portions and a bottom portion, wherein, at the top of said bag a first heat seal (transverse weld 3, in Figure 3 embodiment) is formed along an upper edge portion of said bag and a second heat seal (14, 15 or 16) is formed diagonally to extend from said first heat seal to one of said sides wherein said second heat seal portion provides support for the bag when expelling the contents through an opening formed below the first seal. See Figure 3 embodiment.

With respect to claim 5, note notch (17) in Figure 3 embodiment.

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8. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Morton (4,644,732). Morton '732 discloses a reinforced bag formed of heat sealable sheet material (thermoplastic), said bag containing liquid or solid material therein and comprising left and right side edge portions and a bottom portion, wherein, at the top of said bag a first heat seal is formed along an upper edge portion of said bag and a second heat seal is formed diagonally to extend from said first heat seal to one of said sides wherein said second heat seal portion provides support for the bag when expelling the contents through an opening formed below the first seal. See Figure 3 embodiment.

With respect to claim 5, note notch (17) in Figure 3 embodiment.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over each of Beer '803.

With respect to claims 10-12, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the location of the second diagonal seal and the notch, since it has been held that mere duplication and rearranging of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8 and *In re Einstein*, 8 USPQ 167.

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11. Claims 3-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over each of Henning '835 or Morton '732.

Each of Henning '835 and /or Morton '732 as described above discloses all the limitations of the claims except for the specific materials. Bags containing chemicals in the form of powder or lumps are old and conventional as acknowledged by applicant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in view of this acknowledgement to put powder or lumpy chemicals into the bag of Henning '835, as it is well suited for such use.

With respect to claims 10-12, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the location of the second diagonal seal and the notch, since it has been held that mere duplication and rearranging of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8 and *In re Einstein*, 8 USPQ 167.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Henning '835 or Morton '732 in view of Berman (Des. 429,459). Each of Henning '835 and/or Morton '732 as described above discloses all the limitations of the claims except it is silent as whether the bag is free standing or not. Berman discloses that it is desirable to make bags free standing for easier handling. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to the bag of Henning '835 free standing as taught by Berman for easier handling.

13. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beer '803. Beer '803 as described above discloses all the limitations of the claims except for

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the bag being made of two to four different layers. Falla '051 discloses that it is desirable to make pouches for flowable materials from several different layers to better resist unnecessary tearing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pouch of either one of Beer '803 as multi layer as taught by Falla '051 to better resist unnecessary tearing of the bag.

14. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Henning '835 or Morton '732 in view of Falla et al. (5,508,051). Each of Henning '835 or Morton '732 as described above discloses all the limitations of the claims except for the bag being made of two to four different layers. Falla '051 discloses that it is desirable to make pouches for flowable materials from several different layers to better resist unnecessary tearing of the bag. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pouch of either one of Henning '835 and/or Morton '732 as multi layer as taught by Falla '051 to better resist unnecessary tearing of the bag.

Response to Arguments

15. Applicant's arguments with respect to claims 1-5 and 7-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are reinforced bags analogous to applicant's instant invention.

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17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JILA M. MOHANDESI
PRIMARY EXAMINER**



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
August 23, 2005

IN THE DRAWINGS

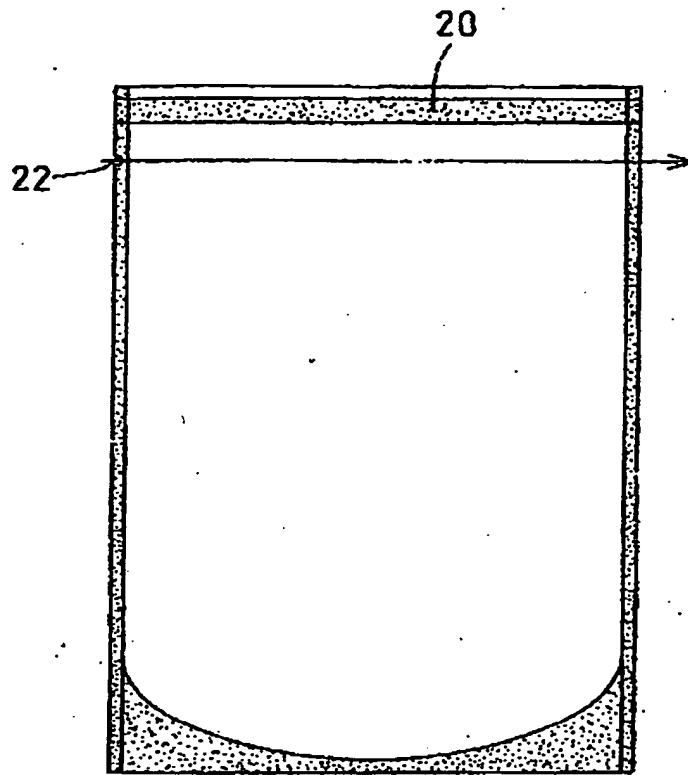
Please label Figures 13 and 14 with the legend "Prior Art". These figures are discussed in the "Description of the Related Art" section of the present application at page 3, lines 13 through 19. Each of these figures is referred to at lines 21 through 23 at page 15 in the specification as a "conventional example".

Substitute drawing sheets showing these changes are submitted herewith for the Examiner's approval.

Approved for entry.
In 08-15-05



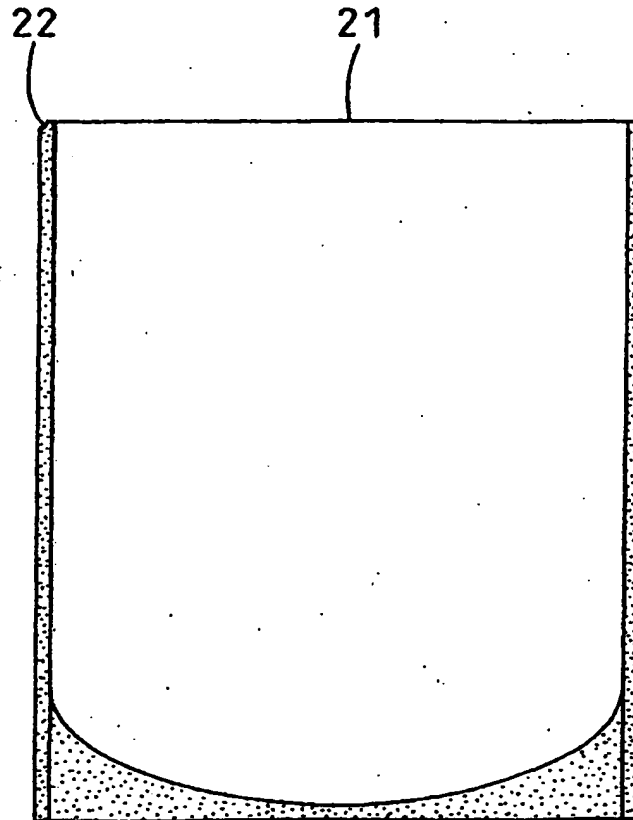
FIG. 13



PRIOR ART



FIG. 14



PRIOR ART